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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,579	10/18/2001	Yoshitaka Takeuchi	35.C15884	5217
5514	7590	11/28/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			WHIPKEY, JASON T	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

2612

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/978,579	<b>Applicant(s)</b> TAKEUCHI, YOSHITAKA	
	<b>Examiner</b> Jason T. Whipkey	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☒ Claim(s) 3 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. The translation of Japanese Patent Application No. 2000-319718 that was submitted on October 25, 2005, shows that said application antedates the McGarvey reference. The rejections using the McGarvey reference have been withdrawn, as has the finality of the previous Office action. A new rejection of the claims follows.

### *Specification*

2. The amendment to the abstract is approved and the corresponding objection is withdrawn.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sergeant (U.S. Patent No. 5,517,236) in view of Sawachi (U.S. Patent No. 6,862,040).

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Regarding **claim 1**, Sergeant discloses an image pickup apparatus (see figures 2 and 3), comprising:

a memory (EEPROM 56) for storing as white data first image data obtained from an image pickup element (CCD 66 produces a signal fed to color processor 70a, which produces R, G, and B signals; see column 12, lines 31-37. The RGB signals<sup>1</sup>, which are used to correct white balance, are stored; see column 12, line 53, through column 13, line 11); and

a control unit for converting second image data either (i) obtained from an object different from that of the first image data (a different set of white balancing parameters can be stored for each of a number of subjects shot by changing the camera's angular coordinates; see column 13, lines 37-40) or (ii) obtained at a timing different from that of the first image data, wherein said second image data is obtained from the image pickup element and stored (see *id.*).

Sergeant is silent with regard to storing the data in a file in a different area.

Sawachi discloses a digital still camera, wherein:

image data is stored into a file (data, including white balance data, is stored each of the plurality of file areas shown in Figure 3; see column 6, lines 35-51) so that the first image data stored in said is in an area different from that of the second image data (as shown in Figure 3, a number of different areas are used to store settings).

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<sup>1</sup> In claim 4, for example, Applicant uses the term "image data" to denote a calculation resulting from raw image data. The examiner will use the term likewise.

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An advantage of storing data in separate files is that the data can be read by an external device, and groups of settings may be deleted without deleting other settings. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Sergeant's system store data in separate file areas.

Regarding **claim 2**, Sergeant discloses:

said memory stores a plurality of first image data as white balance data  
(parameters may be stored for different camera coordinates; see column 13, lines 37-40).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sergeant in view of Sawachi and further in view of Lin (U.S. Patent No. 6,642,962).

Claim 4 may be treated like claim 1. However, Sergeant is silent with regard to using an average value of each color component as white data.

Lin discloses a processor for a digital camera, as shown in Figure 3. The processor calculates averages for each color in a frame for use in white balancing (column 13, lines 12-15). An advantage of using an average of each color in a frame is that anomalous colors and subjects are prevented from disrupting the overall white balance. For this reason, it would have been obvious at the time of invention to have Sergeant's camera calculate an average of each color in a frame for use in white balancing.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sergeant in view of Sawachi and further in view of Noguchi (U.S. Patent No. 6,774,938).

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**Claim 5** may be treated like claim 1. However, Sergeant is silent with regard to using the center of the image as the data.

Noguchi discloses a white balance system, wherein:

the image data is image data of a central portion of an image picked up by the image pickup element (see column 5, line 40, through column 6, line 2).

An advantage of using image data from a central portion of an image is that a minimum of computations is necessary, since an appropriate area does not have to be located. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Sergeant's system use the center of an image for white balance data.

#### *Allowable Subject Matter*

7. Claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, no prior art could be located that teaches or fairly suggests an image pickup apparatus that captures and stores first image data as white data, captures second image data and stores it in a file with the first image data, and determines what in the second image data should be displayed on a display in order to adjust the white balance of the first image data.

Regarding claim 6, no prior art could be located that teaches or fairly suggests an image pickup apparatus that captures and stores first image data as white data, captures second image

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data and stores it in a file with the first image data, wherein the white data of the first image data is not a white balance adjustment value for adjusting the second image data.

8. Claim 7 is allowed.

No prior art could be located that teaches or fairly suggests an image pickup apparatus that stores reference data and specific data captured using two different light sources, wherein a control device reads out an image file containing white balance data and corrects the *white balance data* using the reference data and the specific data.

### ***Conclusion***

9. Applicant's amendment on January 11, 2005, necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc-Yen Vu, can be reached at (571) 272-7320. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

JTW

November 17, 2005

  
NGOC-YEN VU  
PRIMARY EXAMINER